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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 DAVID HOWELL,

Case No. 3:18-cv-00423-RCJ-WGC

10 Plaintiff,

ORDER

11 v.

12 WING, et. al.,

13 Defendants.

14 Plaintiff David Howell has submitted a complaint under 42 U.S.C. § 1983, attached
15 to an application to proceed *in forma pauperis*. (ECF No. 1, 1-1). Pursuant to 28 U.S.C.
16 § 1915(g), “if [a] prisoner has, on 3 or more prior occasions, while incarcerated or detained
17 in any facility, brought an action or appeal in a court of the United States that was
18 dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which
19 relief may be granted,” he may not proceed in forma pauperis and, instead, must pay the
20 full filing fee in advance unless he is “under imminent danger of serious physical injury.”
21 28 U.S.C. § 1915(g). Plaintiff has at least three strikes under 28 U.S.C. § 1915(g). See
22 3:04-cv-70-HDM-VPC, 3:17-cv-736-MMD-WGC, and 18-15390 (Ninth Circuit appeal).

23 Furthermore, the Court finds that the allegations fail to plausibly allege that Plaintiff
24 was in imminent danger of serious physical injury at the time he filed the complaint. See
25 *Andrews v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007) (holding that the exception to
26 § 1915(g) applies if the complaint makes a plausible allegation that the prisoner faced
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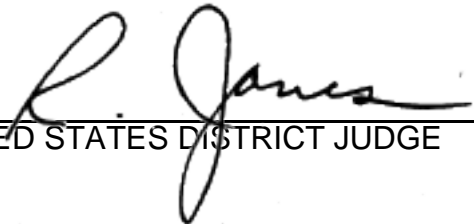
1 imminent danger of serious physical injury at the time of filing). Therefore, Plaintiff must
2 pre-pay the filing fees in full.

3 **CONCLUSION**

4 IT IS THEREFORE ORDERED that the Application for Leave to Proceed in
5 Forma Pauperis (ECF No. 1) is DENIED.

6 IT IS FURTHER ORDERED that Plaintiff shall have thirty days to pay the \$350
7 filing fee and the \$50 administrative fee. Failure to comply may result in dismissal without
8 prejudice without further notice.

9 DATED THIS 23rd day of December, 2019.

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12 UNITED STATES DISTRICT JUDGE
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